

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RONALD ZUESKI,

Plaintiff,

CASE No. 07-10245

v.

HONORABLE DENISE PAGE HOOD

MICHIGAN STATE POLICE, et al.,

Defendants.

_____/

ORDER ACCEPTING REPORT AND RECOMMENDATION

I. INTRODUCTION

This matter is before the Court on Magistrate Judge R. Steven Whalen's Report and Recommendation [**Docket No. 138, filed August 6, 2008**]. Magistrate Judge Whalen recommends that Defendants Taylor Police Department's (City of Taylor's), Gina Masterson's, Keith O'Conner's, Anthony Neal's, Nicolas Hill's, Timothy Culp's and Michael Neidy's Motion for Summary Judgment [**Docket No. 66, filed December 3, 2007**], Timothy Ames' and Woodhaven Police Department's Motion for Summary Judgment [**Docket No. 67, filed December 4, 2007**], the City of Woodhaven's Motion for Summary Judgment on its Counter-claim for \$10,333.21 [**Docket No. 67, filed December 4, 2007**], and Dennis McCarthy's and Robert Prause's Motions for Summary Judgment [**Docket No. 69 and 78**] all be GRANTED.

Plaintiff filed an Objection to the Report and Recommendation [**Docket. No. 141, filed August 15, 2008**], claiming that videotape evidence that would allegedly corroborate his claims are missing.

II. STANDARD OF REVIEW

The standard of review to be employed by the Court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). This Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” *Id.*

III. ANALYSIS

Plaintiff seeks to survive Summary Judgment by submitting his own personal account of the arrest. Plaintiff alleges various officers participated in his beating, while all other evidence submitted places them away from the scene of the arrest. Plaintiff’s account of his arrest is also undermined by his admission that he smoked three rocks of crack cocaine during the course of the car chase leading to his arrest. *See Docket No. 66*, Exh. A at 87-89. In a summary judgment motion, the Plaintiff has the burden of proffering “evidence on which the jury could *reasonably* find for the plaintiff.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. at 252 (emphasis added). A mere scintilla of evidence is not sufficient to defeat summary judgment. *Hopson v. DaimlerChrysler Corp.*, 306 F.3d 427, 432 (6th Cir. 2002). This Court agrees with the Magistrate Judge that no reasonable jury could find in favor of the Plaintiff on his claims. Plaintiff’s mere belief that allegedly missing tapes would corroborate his claims are not sufficient, he must bring some evidence to counter the considerable evidence refuting his claims, and he has not.

IV. CONCLUSION

The Court fully adopts Magistrate Judge Michael Whalen’s Report and Recommendation.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Stephen Whalen [**Docket No. 138, filed August 6, 2008**] is ACCEPTED and ADOPTED as this Court's finding and conclusions of law.

IT IS FURTHER ORDERED that Defendants Taylor Police Department's (City of Taylor's), Gina Masterson's, Keith O'Conner's, Anthony Neal's, Nicolas Hill's, Timothy Culp's and Michael Neidy's Motion for Summary Judgment [**Docket No. 66, filed December 3, 2007**] is GRANTED.

IT IS FURTHER ORDERED that Timothy Ames' and Woodhaven Police Department's Motion for Summary Judgment [**Docket No. 67, filed December 4, 2007**] is GRANTED.

IT IS FURTHER ORDERED that the City of Woodhaven's Motion for Summary Judgment on its Counter-claim for \$10,333.21 [**Docket No. 67, filed December 4, 2007**] is GRANTED.

IT IS FURTHER ORDERED that Dennis McCarthy's and Robert Prause's Motions for Summary Judgment [**Docket No. 69 and 78**] are GRANTED

IT IS FURTHER ORDERED that this case is DISMISSED with prejudice.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: September 9, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record and Ronald Zueski, Reg. No. 171151, Marquette Branch Prison, 1960 U.S. Hwy. South 41, Marquette, MI 49855 on September 9, 2008, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager